



STATE OF WEST VIRGINIA
OFFICE OF THE ATTORNEY GENERAL
DARRELL V. MCGRAW, JR.
CONSUMER PROTECTION DIVISION
1-800-368-8808 or 304-558-8986

Press Release

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Contact: Silas B. Taylor

Phone: (304) 558-2021

Attorney General McGraw Says Graham's IRA Should Be Used to Provide Services To Seniors

Attorney General Darrell McGraw, on behalf of all Statewide elected officials, filed documents last week with the Supreme Court of Appeals arguing that Robert E. Graham's Individual Retirement Account (IRA) should be used to provide services to senior citizens in Wyoming County. Graham was the CEO of the nonprofit corporation, Wyoming County Council on Aging, Inc., which receives State and Federal funds to provide services to seniors. He was convicted in August of 2006 of embezzling funds from the Council by cashing in accrued sick leave without the approval of the Council's board of directors. The IRA, funded entirely by the Council, was one of his other lucrative fringe benefits.

McGraw's filing was in response to Graham asking the Supreme Court to release his IRA, currently under a freeze order. After Graham's conviction, Circuit Judge Charles E. King, Jr., of Kanawha County, placed a freeze on the account, then worth about \$305,000.00, pending the outcome of a lawsuit the State brought alleging that Graham had received excessive compensation and should pay it back. Graham's attorneys sought to release the frozen account so that Graham could pay their fee, around \$200,000.00.

When Judge King refused their request, Graham's attorneys filed a Petition in the Supreme Court of Appeals. Graham's Petition argues that the State has no right to require Graham to return money to the Council on Aging, because the Council itself has not asked to be repaid.

McGraw's response says that nonprofit charitable corporations receive tax exempt status because they perform services that would otherwise be the responsibility of the government. When their funds are used for the personal enrichment of their officers, the public loses the value of those services and has a right to demand that such misappropriated funds be returned and used properly.

In some other States, the Attorney General (or other state officer) may sue for the return of such funds when the nonprofit corporations themselves refuse to do so. In West Virginia, this question has not yet been decided. "Given the public perception, and likely reality, of widespread abuse of taxpayer-funded nonprofit corporations, this is an important question," McGraw's Response said. Senior Deputy Attorney General Silas B. Taylor, who signed the Response said, "There are some fine people that work for that organization and they could put that money to good use for our seniors."

Approximately \$50,000.00 of the IRA funds have been used to pay fines and forfeitures imposed by the Federal court, so there should be in excess of \$250,000 remaining in the account.

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